

**STATE OF ILLINOIS**  
**BEFORE THE ILLINOIS COMMERCE COMMISSION**

**Docket No. 03-0670**

**Direct Testimony of DAVID M. SWANSON**  
**On Behalf of SBC ILLINOIS**

**SBC Illinois Exhibit 2.0**

**February 6, 2004**

## **TESTIMONY OF DAVID M. SWANSON**

### **SBC ILLINOIS**

#### **QUALIFICATIONS**

**Q. Please state your name and business address.**

A. David M. Swanson, 912 Country Club Drive, LaGrange, Illinois 60525.

**Q. What is your position?**

A. I provide real estate asset and transaction management services under contract to Equis Corporation and SBC Services, Inc. Equis Corporation provides transaction and lease management services to many SBC Communications affiliates, including SBC Illinois.

**Q. What is your business experience?**

A. I was a real estate manager for Illinois Bell Telephone Company, now SBC Illinois, for 23 years. I handled purchases, zoning, sales, leases and administrative functions related to the Company's real estate operations. Since July 1994, I have been providing similar services to SBC affiliates in the Midwest region, including SBC Illinois, on a contract basis. I do business as D.M. Swan Enterprises, Inc. I am also a licensed real estate broker in the State of Illinois.

#### **PURPOSE**

**Q. What is the purpose of your testimony?**

A. The purpose of my testimony is to show that it is not in the "Public Interest" convey the fee title to land owned by SBC Illinois to IDOT. Granting IDOT only

an easement for road purposes will give IDOT the interest in the land that it requires for road development while preserving SBC's rights for zoning and future reimbursements.

**Q. What is your role in regard to IDoT's proposed taking in Lincolnshire?**

A. SBC received a letter dated March 14, 2003, from IDoT. The letter indicated that IDoT was planning to expand Illinois Route 22 in Lincolnshire and, in connection with the road widening, desired to acquire, in fee simple, part of a parcel of land SBC owns. The parcel is located at the southeast corner of the intersection of Half Day Road and Palazzo Drive, and SBC owns and operates a remote switch module on the parcel there. The facility is, essentially, a small central office and wire center. The letter described the parcel to be acquired, made an offer for the parcel, and advised that condemnation would proceed if a voluntary acquisition could not be arranged. The SBC real estate managers asked me to handle the matter for SBC.

**Q. Have you handled similar "takings" before, and how did you approach them?**

A. I have handled a number of similar situations while an employee of Illinois Bell and in my current position as a contractor. SBC's objectives in such cases are 1) to analyze and mitigate, to the extent possible, the impact of such takings on its operations at the location – both the improvements, such as buildings, and its telecommunications facilities – and 2) to be satisfied that the compensation

offered is fair. (This second objective is less important.) My role is to conduct these analyses and negotiate with the taking agency.

**Q. What impacts to buildings or land is SBC concerned about?**

A. Takings reduce the setbacks and total area of the parcel in question and may make the parcel or the building on the parcel nonconforming to the zoning code in one or more ways. Most zoning codes have setback requirements for buildings and minimum lot sizes. Many also limit the square footage of a building footprint in relation to the overall parcel size. (This is often called the Floor Area Ratio.) Most codes provide that nonconforming parcels or buildings may not be expanded or -- if the building is destroyed by fire or other calamity, rebuilt -- unless brought into compliance with the code, or unless a variance or special exception is granted. Receiving such a variance or special exception is not assured. SBC is especially concerned about takings on central office parcels, as it is technically very difficult and extremely expensive to relocate a switch. SBC's objective is to be sure the parcels on which its central offices are located comply with zoning codes both as to the existing building and as to foreseeable expansion.

**Q. Are there any other impacts to buildings or land?**

A. The taking may impact a stormwater drainage area, or an onsite waste disposal system, or a fence. I look at all of those possibilities and plan for relocation of the facilities, if necessary.

**Q. What are the impacts of IDoT's proposed taking on SBC's land and building in this case?**

A. This building is relatively new and the parcel is large, so, fortunately, we don't believe the taking will cause any problems with setbacks or potential future development.

**Q. What impacts to telecommunications facilities is SBC concerned about?**

A. SBC often maintains telecommunications facilities – conduit systems, poles, cables and wires, fiber optic systems, cabinets and enclosures, and the like – on property it owns. This is particularly true of properties with central offices, which are also wire centers. That is, they are the location from which emanate all of the cables and wires that connect the central office to the customers served by the switch, and to other switches. So, a central office property will be the single location with the highest concentration and density of cables and wires within the wire center. Where feasible, SBC constructs the distribution conduits emanating from the switch on property it owns, rather than in public right of way, because, like the switch in the central office, the distribution conduit nearest the central office will be the most difficult and expensive to relocate. If the conduit is on SBC-owned property, it is less likely to need to be moved than if it is in public right of way. The objective of avoiding facility relocations is also why SBC tries to place its facilities in private easements outside of public rights of way; in such locations, they are less likely to be subjected to relocation to accommodate the development plans of others, including road authorities. Assessing the impact of

a taking on telecommunications facilities involves determining what, if any, adjustments or protections need to be made to SBC's telecommunications facilities as a result of the taking. This task is actually performed by SBC's outside plant managers. My role is to be sure that such an assessment takes place and to negotiate its impact with the taking agency.

**Q. What telecommunications facilities are located on SBC's Lincolnshire parcel and what are the impacts of the taking on those facilities?**

A. As noted above, this parcel is a wire center, so there are several very significant conduit systems on SBC's parcel. Pamela Summers's testimony describes these systems and the impacts on each of IDoT's proposed construction. Of particular concern is a conduit system running in an east and west direction parallel to Half Day Road along the north side of SBC's parcel. IDoT's proposed widening of Half Day Road would take that conduit system. That system is the main feeder/distribution system emanating from the central office on this parcel. I understand that the conduit system consists of a manhole (MH 305) from which 24 – 4" ducts containing large copper cables and fiber optic cable run to the east. Three (3) ducts containing copper cable and fiber optic cable run west from MH 305, turning south and paralleling Palazzo Drive.

**Q. How are takings involving such utility property usually resolved?**

A. When an agency is taking property it is taking both the real property interest – a fee interest or an easement, for example – and it is taking the improvements on

the property. It is difficult to measure the value of utility facility improvements at a given location because their value is their interconnectedness with other utility facilities. So, in my experience, the usual result is that the taking agency pays to relocate the facilities, or, if there is no present need to relocate the facilities because they do not conflict with the project for which the property is being taken, the agency agrees to pay for the future relocation, or the taking is structured in a manner such that payment for future relocation is the result. For instance, if SBC has facilities in an easement along an existing road and IDoT plans to widen the road, IDoT will either pay to relocate the SBC facilities outside the expanded right of way or IDoT will agree to pay SBC to relocate its facilities if future road construction requires relocation.

**Q. What does IDoT propose in this case?**

A. IDoT desires to acquire a fee simple interest in portions of SBC's parcel. That means IDoT wants to acquire all of SBC's interest in the property, including the improvements, which, in this case are the main conduit system and facilities described above. Curiously, IDoT did not offer to relocate the facilities back onto SBC's parcel nor did IDoT offer an amount that includes the value to SBC of the conduit and cable facilities.

**Q. What was SBC's response to IDoT's offer?**

A. Initially, we thought that the road widening would not conflict with the conduit system, so we did not see a need to relocate the conduit system at the present

time. SBC was willing to convey the property to IDoT if IDoT committed to pay for any SBC costs to relocate the conduit should future road construction require such relocation. As set forth in Ms. Summers' testimony, upon further analysis it appears that there will be some conflicts, primarily with the location of the manhole covers for MH305 and with the routing of an IDoT 42" storm sewer along a route paralleling SBC's conduit. Still, it appears from Ms. Summers' testimony that the most cost effective solution to the conflicts is to adjust the conduit system in its current location, rather than relocate the entire conduit system outside of the portion of SBC's parcel to be taken by IDoT.

**Q. What was IDoT's response to SBC's position?**

A. IDoT refused to commit to pay future relocation costs. IDoT has also not agreed to relocate the conduit system now. Nor has IDoT increased its offer for the fee simple interest it wants. The materials IDoT submitted supporting its valuation of SBC's property make no mention of the conduit system.

**Q. What is SBC's position on this taking?**

A. SBC does not oppose IDoT obtaining an interest in SBC's property for its project. On the other hand, SBC does not believe it should surrender its interest in its conduit system for that project without consideration. Given the large cost and long time it would take to relocate the conduit back onto SBC's property, it would not be in the public interest to move the conduit now. The better course would be



for IDoT to agree to relocate SBC's facilities should future roadwork require relocation. There are several ways to accomplish this. One way would be for IDoT to limit its taking to an easement for highway purposes, rather than a fee simple interest. Then, SBC would retain its rights to the underground conduit system. Alternatively, IDoT could take a fee simple interest but agree to pay the cost of future SBC relocations.

**Q. Do you have anything else?**

A. No. This concludes my testimony.